

REMARKS

Favorable reconsideration of the present application in light of the following remarks is respectfully requested.

Claims 1-29 are pending in this application. No claims are amended, cancelled or added by this response.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over (U.S. Publication No. 2002/0087359, herein “Bocionek”) in view of Nakano (U.S. Publication No. 2004/0186747, herein “Nakano”). Applicants respectfully traverse this rejection as detailed below.

To perfect priority for the instant application, Applicants submit herewith a certified English-language translation of German priority document 102 38 596.3 filed on August 22, 2002 along with a Statement of Accurate Translation. Because August 22, 2002 is before January 3, 2003 and December 22, 2003, perfecting priority to the German priority document 102 38 596.3 removes Nakano as prior art, thereby overcoming all of the rejections included in the March 24, 2008 Office Action. A more detailed discussion of why Nakano is not prior art is provided below for the Examiner’s convenience.

The filing date of Nakano is December 22, 2003, and Nakano is a Continuation of Application No. PCT/JP01/05304. Application No. PCT/JP01/05304 was filed on June 21, 2001, and was published as WO 03/001421 on January 3, 2003. However, this publication was not in the English language.

A reference cannot be used in a 35 U.S.C. § 103 rejection if the reference does not qualify as prior art under some section of 35 U.S.C. § 102. The earliest date available for this

reference to be used as prior art under 35 U.S.C. § 102 is January 3, 2003 under section (a). The 35 U.S.C. § 102(e) date is the U.S. filing date of Nakano, which is December 22, 2003.

In light of the above, Applicants respectfully request the rejections of claims 1-29 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-29 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By


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